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RI State Police Fail to Comply with GoLocal's 38 Studios Request, Media Company to Appeal

Friday, September 16, 2016

GoLocalProv News Team



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The Rhode Island State Police released four CDs of media articles and copies of documents previously released by Judge Michael Silverstein from the 38 Studios Civil case, but failed to release any of the information requested by GoLocal in its Access to Public Records Request (APRA) regarding the agency's null four-year criminal investigation into 38 Studios.

Recently, Colonel Steve O'Donnell "resigned" as head of the State Police and the number two in the agency, Major Todd Catlow, announced his retirement.

It is unclear if the State Police were unaware that the information that they provided today had been released by Silverstein months earlier. It seems to be an embarrassing error by the State Police.



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O'Donnell "Resigned" recently at head of RISPS

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More than thirty elected officials and leading civic organizations have called for release of the documents tied to the criminal investigation, including Governor Gina Raimondo, former Governor Lincoln Chafee, former Attorney General Arlene Violet, and the RI ACLU to name but a few.

"This response is disappointing. GoLocal made a very specific and focused request for witness statements and similar records," Tom Dickinson, GoLocalProv's attorney and former Assistant Attorney General in Rhode Island.

GoLocal to Continue Efforts to Release Documents

"I'm well aware of the secrecy requirements of the grand jury, but witness interviews and statements taken by State Police officers outside the grand jury are not covered by those secrecy rules," said Dickinson.

It should be noted GoLocal did not request 38 Studios grand jury records.

Recently, the Federal Bureau of Investigation (FBI) released the investigators' notes regarding the interview with former Secretary of State Hillary Clinton. [READ THOSE DOCUMENTS HERE](#)

Dickinson, who served in a leadership role in the Attorney General's Office under the leadership of Jeff Pine, has raised concerns about the Attorney General and State Police's claim that the criminal investigation of wrong doing is "over" after four years, but continues to be open.

"Another reason offered (by the State Police) for withholding the records is the claim that the investigation remains open. We will appeal this determination within the Department of Public Safety, and if necessary, we'll go to Superior Court to get public access to these records," said Dickinson.

"I look forward to an opportunity to explore what steps are ongoing to keep this 'open' investigation going (by the Attorney General)," said Dickinson.

Questions About Kilmartin's Role in Investigation Continue

While Attorney General Peter Kilmartin and the State Police failed to make any progress on a criminal case after four years, many questions have emerged regarding Kilmartin's role in 38 Studios funding scheme as a legislator and his dual role in overseeing the investigation. Governor Raimondo has stated that Kilmartin had an appearance of a conflict and should have recused himself from the investigation.

"It is a sad period for the Rhode Island State Police. It seems that the agency is in distress and the departing leadership seem to have an interest that is inconsistent with transparency," said Josh Fenton, CEO and Co-Founder of GoLocal24. "Hopefully, Governor Raimondo can begin to restore confidence in the State Police and direct the agency to help expedite the process of releasing documents."

"It is a sad situation that Rhode Islanders cannot gain access to clearly public information. We will continue to pursue strategies to gain access to the information and then share the information with the public," said Fenton.

In early August, when GoLocal tapped Dickinson, he said, "The public interest here is a totally different dimension [than other cases]. Millions of taxpayer dollars, questions of how a public process involving two branches of government functions -- and we've got an investigative undertaking of so much public interest that it consumed an hour of news conference time. If the [Attorney General and State Police] didn't think it's of public interest, they wouldn't have opened the door."

Read State Police Letter Below



INVESTIGATION SUPPORT RELEASING ALL DOCUMENTS



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More than 30 elected officials and civic organizations have called for release of the documents



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Colonel Steven G. O'Donnell
Commissioner, Department of Public Safety
Superintendent, Rhode Island State Police

Office of Legal Counsel
Department of Public Safety

September 15, 2016

Thomas More Dickinson, Esq.
PO Box 9184
Providence, RI 02940-9184

RE: Public Records Request - 38 Studios investigation

Dear Mr. Dickinson:

This serves as final response to your Access to Public Records Act ("APRA") request dated and received August 2, 2016. As previously indicated, your request is governed by the Access to Public Records Act contained in R.I.G.L. Chapter 38-2. In response to a request for public records, an agency is required to make available for public disclosure those records that are responsive to a request, are in the possession of the agency and are not otherwise exempted from disclosure.

Enclosed please find four (4) cds containing information responsive to your request which has been deemed public and releasable.

Please note, however, that all other information regarding this investigation are not releasable at this time under Rhode Island Law. Rhode Island General Law § 38-2-2(4)(D)(a) exempts records in law enforcement files that could reasonably be expected to interfere with investigations of criminal activity or with enforcement proceedings. The 38 studios investigation remains an open case at this time. As such, it is also exempted under Rhode Island General Law § 38-2-2(4)(K) which excludes preliminary drafts, notes, impressions, memoranda, working papers and work products.

Additionally, the remaining records are presently excluded from release under Rhode Island General Law § 38-2-2(4)(S) which exempts records, reports, opinions, information and statements required to be kept confidential by federal law or regulation or state law, or rule of court. Specifically, records related to this matter are protected under Rhode Island General Law § 12-11.1-5.1 entitled *Unlawful grand jury disclosure*, as well as Rule 6 of the Rhode Island Superior Court Rules of Criminal Procedure prohibiting disclosure of matters before the grand jury. The Rhode Island State Police and the Rhode Island Department of Attorney General's office utilized the grand jury system as an investigative tool in this case. Because of the secrecy of the grand jury system and the grand jury testimony of several witnesses, disclosure of any records from the Rhode Island State Police investigation may violate the statute governing those proceedings. As such, the records you are seeking are exempt in their entirety under RI Law and no portions are segregable under Rhode Island General Law § 38-2-3(b).

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Thomas More Dickinson
September 15, 2016
Page 2

Rhode Island General Law §38-2-2(4)(E) exempts any records which would not be available by law or rule of court to an opposing party in litigation. This matter is presently in suit.

Rhode Island General Law § 38-2-2(4)(D)(b) exempts release of records which would deprive a person of a right to a fair trial or an impartial adjudication.

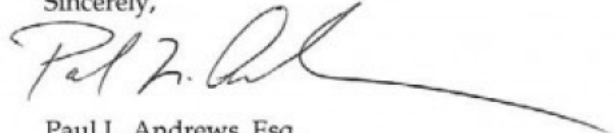
Lastly, Rhode Island General Law § 38-2-2(4)(D)(c) excludes personal information relating to an individual in any files and law enforcement records that could reasonably be expected to be an unwarranted invasion of personal privacy, or could disclose information furnished on a confidential basis. Because this matter is not a circumstance where a crime was proven to have occurred, and no arrest was made, the privacy interests of the individuals involved are substantial and would not be considered a public record. See In re Cumberland Police Department, ADV PR 03-02.

As the remaining records you are seeking are exempt in their entirety under RI Law, no portions are segregable under Rhode Island General Law § 38-2-3(b).

A copy of Rhode Island General Laws § 38-2-8 is enclosed which provides the procedures for appeals.

Please feel free to contact our office at a later time to check on the status of this matter accordingly.

Sincerely,



Paul L. Andrews, Esq.
Chief Legal Counsel

PLA/Ira

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§ 38-2-8. Administrative appeals

(a) Any person or entity denied the right to inspect a record of a public body by the custodian of the record may petition the chief administrative officer of that public body for a review of the determinations made by his or her subordinate. The chief administrative officer shall make a final determination whether or not to allow public inspection within ten (10) business days after the submission of the review petition.

(b) If the chief administrative officer determines that the record is not subject to public inspection, the person or entity seeking disclosure may file a complaint with the attorney general. The attorney general shall investigate the complaint and if the attorney general shall determine that the allegations of the complaint are meritorious, he or she may institute proceedings for injunctive or declaratory relief on behalf of the complainant in the superior court of the county where the record is maintained. Nothing within this section shall prohibit any individual or entity from retaining private counsel for the purpose of instituting proceedings for injunctive or declaratory relief in the superior court of the county where the record is maintained.

(c) The attorney general shall consider all complaints filed under this chapter to have also been filed pursuant to the provisions of § 42-46-8(a), if applicable.

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Related Slideshow: Leaders, Groups Call for Release of 38 Studios Docs Following Criminal Investigaton

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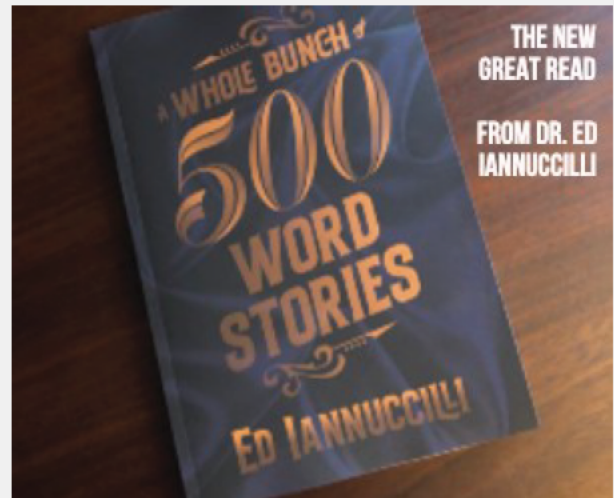
House GOP Caucus

Republicans

The House Minority Caucus has sent a letter to Chairwoman of the House Committee on Oversight, Representative Patricia A. Serpa, requesting that the Committee reconvene, to subpoena and release to the public, documents related to the 38 Studios investigation.

The letter comes following an announcement by Attorney General Peter Kilmartin and Rhode Island State Police Superintendent Col. Steve O'Donnell, that there would be no criminal charges following the investigation.

Members of the House Minority Caucus believe Rhode Islanders have a right to know all the facts surrounding the 38 Studios investigation, and that Attorney General Kilmartin's refusal to release these investigatory records is an affront to the hard-working Rhode Island taxpayers who are footing the bill for this misadventure





House GOP
Caucus



Sen. Steve
Archambault



Rep. Deb
Ruggiero



AG Arlene Violet



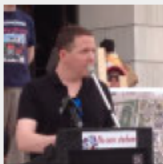
Rep. Pat Serpa



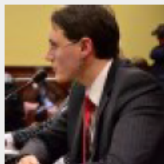
Mayor Allan
Fung



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David Norton



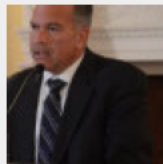
Sam Bell



Rep. Patricia
Morgan



Mayor Avedisian



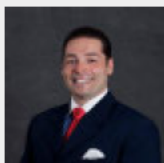
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Mattiello



Gov. Lincoln
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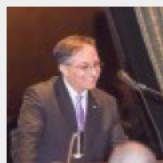
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Justin La Croix

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